IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER No. 730 of 2006

Iqbal Pasha Mouddin Sharif .. Appellant

versus

The Municipal Corporation of

Gr.Bombay .. Respondent

...

Mr.Amit Shastri for the appellant.

Mrs.Geeta Jogalekar for the respondent.

CORAM : D.G. KARNIK, J

DATED : 6th November 2006

P.C.:

1. Heard learned counsel for the parties.

2. This appeal is directed against an order refusing to grant ex-parte injunction. Rule 3 of Order 39 of the Code of Civil Procedure requires the Court to issue notice before granting an injunction. Proviso to

the rule however permits the court to grant injunction without giving of a notice for the reasons to be recorded in writing. In the present case, the Court has followed the normal rule of issuance of a notice before granting of an injunction. I do not see any reason for interfering in the discretion exercised by the trial court in refusing to grant injunction without notice especially because there is no evidence that the suit structure is an authorised structure.

3. In the circumstances, the appeal is dismissed summarily.

(D.G. KARNIK, J)